

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE:

UNITED CITIES GAS COMPANY, a  
Division of ATMOS ENERGY  
CORPORATION INCENTIVE PLAN  
ACCOUNT (IPA) AUDIT

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**AFFIDAVIT OF MARK THESSIN**

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I, Mark Thessin, being duly sworn, depose and state as follows:

1. I have personal knowledge of the facts stated herein.
2. In January 2001, I held the position of Vice President of Rates and Regulatory Affairs for United Cities Gas Company/Atmos Energy Corporation ("UCG").<sup>1</sup> I have since resigned that position for health reasons.
3. As Vice President of Rates and Regulatory Affairs for UCG, my duties included supervising the company's compliance with state and federal regulations, and communicating with state and federal regulators, including Tennessee Regulatory Authority ("TRA") staff, on a regular basis. As an attorney, I also provided legal counsel to UCG within the scope of my employment.
4. Sometime around the beginning of January 2001, UCG contacted Mike Horne, then Chief of the TRA Energy and Water Division, to request a meeting between UCG representatives and TRA staff. The purpose of the meeting was to discuss certain transportation discounts UCG

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<sup>1</sup> United Cities Gas is an unincorporated division of Atmos Energy Corporation doing business in Tennessee as United Cities Gas Company. As indicated by a recent tariff filing, Atmos Energy Corporation has elected to cease doing business as United Cities Gas Company, and to instead use the company's legal corporate name, Atmos Energy Corporation. In all proceedings before the Tennessee Regulatory Authority, the terms "United Cities Gas Company" and "Atmos Energy Corporation" have the same meaning and can be used interchangeably.

had recently negotiated and how those savings would be accounted for under UCG's performance-based ratemaking ("PBR") tariff.

5. The meeting was held on January 31, 2001, at the TRA offices in Nashville. I participated in the meeting. The meeting was quite lengthy, lasting more than an hour.

6. TRA Chief of Energy and Water Division Mike Horne, and TRA staff members Dave McClanahan and Pat Murphy were present at the meeting.

7. UCG had arranged for several members of its management to attend the meeting. Present at the meeting representing UCG were, in addition to myself:

- (1) Pat Childers, then Manager of Rates and Regulatory Affairs;
- (2) Alicia Rye, Rate Analyst; and
- (3) Ms. Rye's supervisor, Bob Cline, Manager of Rate Administration.

8. UCG also arranged for two individuals from the home office of Atmos Energy Corporation in Dallas, Texas to travel to Nashville to attend the meeting. They were:

- (1) Patti Dathe, Gas Supply Analyst; and
- (2) Ms. Dathe's supervisor, John Hack, Director of Gas Supply Planning.

9. At the meeting, UCG representatives provided all of the attendees with packet of information, which included a Meeting Agenda. A copy of the information packet is attached as collective Exhibit 1 to the Affidavit of Patricia Childers.<sup>2</sup>

10. The purpose of the January 31 meeting was to inform the TRA staff that UCG had successfully negotiated discounted rates for a substantial portion of its transportation contracts. In prior years, UCG's transportation contracts were priced at the maximum rate permitted by the Federal Energy Regulatory Commission (the "maximum FERC rate"). At the January 31 meeting,

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<sup>2</sup> Because the exhibit contains confidential and proprietary information belonging to UCG, it has been filed under seal.

UCG told the TRA staff that UCG, motivated in part by the PBR provisions allowing UCG to share in savings from avoided costs, had actually begun efforts to negotiate discounted transportation rates in late 1999. UCG informed the TRA staff at the meeting that around October of 1999, UCG was successful in completing negotiated discounts for three of its transportation contracts. The combined totals for these contracts represented a very small portion of UCG's total transportation costs. The second page of the information packet UCG provided to the attendees at the January 31 meeting showed the savings that resulted from those discounted transportation contracts, which totaled \$1,160,050 for UCG's 1999-2000 PBR plan year. (Childers Aff. Exhibit 1 at p. 2.)

11. UCG then told the TRA staff that just a few months earlier, around November of 2000, UCG had successfully completed negotiated discounted rates for the Tennessee Pipeline and the East Tennessee Pipeline systems. These newly negotiated discounted contracts represented a significant portion of UCG's total Tennessee transportation costs as compared to the 1999 discounts. Page 3 of the information packet UCG provided to the attendees at the meeting gave a breakdown of the savings. The sheet listed the maximum FERC rate, the negotiated rate, and the resulting discount for each contract, and computed total monthly and annual savings resulting from those discounts. (Childers Aff. Exhibit 1 at p. 2.) UCG explained to the TRA staff that it was UCG's position that the terms of the PBR tariff allowed UCG to share in the savings resulting from the discounted transportation contracts.

12. UCG had requested the January 31 meeting with the TRA because UCG intended to begin recognizing its share of the savings resulting from the transportation discounts as income on its books, and before it did so, UCG wanted to make sure the TRA staff had no objections to UCG's position and approved of the proposed methods of calculations and reporting. UCG

routinely looked to the TRA staff to provide guidance regarding UCG's compliance with its tariff and other governing regulation.

13. Before the January 31 meeting, I reviewed the orders, testimony and tariff in the PBR matter. I brought some of those materials with me to the January 31 meeting. At the meeting, UCG explained to the TRA staff that the transportation discounts would be considered "avoided transportation costs" under the Gas Procurement Incentive Mechanism of the PBR tariff, and consequently, UCG would be entitled to share in those savings.

14. At the January 31 meeting, UCG explained to the TRA staff how the savings from the transportation discounts would be calculated and reported under the PBR. UCG walked through the fact that the transportation discounts would be calculated by subtracting the negotiated rate from the maximum FERC rate for each particular pipeline. UCG also explained that the monthly discounts for all transportation contracts would be added together to reach a total annual savings, which UCG would then be able to share in according to the percentages outlined in the PBR tariff. (Childers Aff. Exhibit 1.) UCG informed the TRA staff at the meeting that it would begin using this calculation in the quarterly reports, which were due in the upcoming months.

15. At the meeting, UCG told the TRA staff, that due to an oversight, UCG had neglected to report the savings resulting from discounted contracts in its annual report for the 1999-2000 PBR plan year. In response to concerns raised by the TRA staff regarding making corrections to the 1999-2000 plan year, which had already been closed, UCG agreed that it would not seek recovery of its share of the \$1,160,050 in savings for the 1999-2000 plan year. UCG agreed that it would begin reporting the transportation discount savings using the proposed calculation in the next quarterly report and would use that same formulation in all future quarterly and annual reports.

16. The response from the TRA staff at the January 31 meeting was positive. The TRA staff members actively participated in the meeting and asked numerous questions. After UCG finished its presentation, UCG asked the TRA staff what they thought. The TRA staff indicated that they agreed with UCG's position that the savings from the negotiated discounts were included within the avoided costs provisions of the PBR, and that they accepted UCG's proposed method of calculating and reporting the savings. UCG representatives exited the meeting believing that its recognition of this income was not an issue and that UCG was not at risk for disallowance unless UCG heard otherwise from the Staff.

17. At no point during the January 31 meeting did the TRA staff give any indication that UCG could not rely on the TRA staff's statements, or make any suggestion that UCG needed to take any further action before proceeding with its proposed reporting and calculations.

**FURTHER AFFIANT SAITH NOT.**

Mark P. Thessin  
Mark Thessin

Sworn to and subscribed before me this  
18th day of October, 2002.

Catherine W. Meeker  
NOTARY PUBLIC

My Commission Expires: 1/25/06

**CERTIFICATE OF SERVICE**

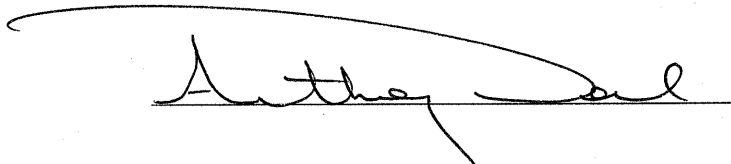
I hereby certify that a true and correct copy of the foregoing was served via facsimile and/or hand delivery on October 21, 2002.

Honorable Sara Kyle  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
(615) 741-2904 (Fax)

Richard Collier, Esq.  
General Counsel  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
(615) 741-5015 (Fax)

Russell T. Perkins  
Timothy C. Phillips  
Shilina B. Chatterjee  
Consumer Advocate & Protection Division  
425 Fifth Avenue, North, 3rd Floor  
Nashville, TN 37243-0491  
(615) 741-3491 (Fax)

Jon Wike  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
(615) 532-7479 (Fax)

A handwritten signature in dark ink, appearing to read "Anthony Saul", is written over a horizontal line. The signature is fluid and cursive, with a long, sweeping underline that extends to the right.